IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 16TH JANUARY 2007 / 26TH PAUSHA 1928

OP.No. 26145 of 1999(K)

PETITIONER:

M.K.MUKUNDAN, OLAYIL THAZHA, P.O. THIKOTI, (VIA) MELADI, KOZHIKODE DIST.

BY ADV. SRI.PARTHASARATHY

RESPONDENTS:

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1. STATE OF KERALA, REP. BY COMMISSIONER & SECRETARY TO GOVERNMENT, DEPT. OF HOME AFFAIRS, SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR GENERAL OF POLICE, THIRUVANANTHAPURAM.

3. THE DEPUTY INSPECTOR GENERAL OF POLICE, KANNUR.

4. THE SUPERINTENDENT OF POLICE, VADAKARA RURAL, KOZIKODE DISTRICT.

BY GOVERNMENT PLEADER SRI. SURARSHAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 65/01/2007, THE COURT ON THE SAME DAY, DELIVERED THE FOLLOWING:

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF MEMO OF CHARGES DT. 26-6-1997.

EXT.P2 ORDER DT. 25-11-1997.

EXT.P3 APPEAL MEMO DT. 20-1-1999.

EXT.P4 ORDER DT. 24-6-1998.

EXT.P5 REVIEW PETITION DT. 20-1-1999.

EXT.P6 ORDER DT. 29-7-1999.

[TRUE COPY]

P.S TO JUDGE.

S. Siri Jagan, J.

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O.P. No. 26145 of 1999

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Dated this, the 16th January, 2007.

J U D G M E N T

The petitioner, while working as a Head Constable in the Perambra Police Station, was charge sheeted for misconduct involving permitting a Jeep belonging to the department to be driven by a private person on account of whose negligence, an accident occurred, in which serious damage was caused to the vehicle and injuries were sustained by two police constables travelling in the vehicle. After an oral enquiry, the petitioner was found guilty of the misconduct. The punishment of recovery of the loss caused to the department was imposed on the petitioner. Petitioner's appeal, review etc., having become unsuccessful, he has approached this Court with this original petition, challenging Exts. P2, P3 and P6 orders.

2. Petitioner's contention is that he was forced to engage the services of a private driver since neither the services of the police driver nor any taxi was available immediately when a situation arose in which the petitioner was forced to go to a place of incident where commission of an offence was apprehended. The petitioner submits that he was forced to resort to the engagement of a private person to drive the police vehicle only because of the exigencies of the situation to prevent an offence, which cannot be termed to be a misconduct at all.

3. I have considered the contentions of the petitioner as also that of the learned Government Pleader.

4. The petitioner has not chosen to produce the punishment role which contains the report of the oral enquiry. As such, I am unable to consider the contentions of the petitioner against the findings therein. In any event, the petitioner himself admits that he had engaged a private person to drive a police vehicle. It is also admitted that on account of the negligent driving of that person, an accident occurred

causing loss to the department. As such, I do not find anything wrong with the orders imposing on the petitioner the punishment of recovery of the loss caused to the department.

Accordingly, I do not find any merit in this original petition and the same is dismissed.

Sd/- S. Siri Jagan, Judge.

Tds/